

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---------------------------|---|--------------------------|
| LEIGH ANN KANISH | : | |
| Plaintiff | : | |
| | : | |
| v. | : | Civil Action 1:19-cv-338 |
| | : | |
| CRAWFORD AREA | : | |
| TRANSPORTATION AUTHORITY, | : | |
| Defendant | : | Jury Trial Demanded |

**DEFENDANT, CRAWFORD AREA TRANSPORTATION AUTHORITY'S
MOTION FOR SUMMARY JUDGMENT**

AND NOW, on this 6th day of October, 2020, comes Defendant, Crawford Area Transportation Authority ("CATA"), by and through their attorneys Summers Nagy Law Offices, to file the following Motion for Summary Judgment and in support thereof avers the following:

1. Plaintiff Leigh Ann Kanish commenced this action on or about November 14, 2019 by filing a Complaint in the United States District Court for the Western District of Pennsylvania. See Doc. No. 1.
2. The Complaint sets forth *quid pro quo*, sexual harassment and retaliation claims against the Defendant related to Plaintiff's employment. See, Plaintiff's Complaint.
3. Defendant filed its Answer to the Complaint on or about December 31, 2019 setting forth its Affirmative Defenses.
4. The pleadings are now closed.

5. The deposition of Kanish was taken on August 3, 2020.

6. Discovery has been completed.

7. Defendant CATA is filing its Statement of Undisputed Facts

simultaneously with this Motion and incorporates the same herein, including

appendices, by reference.

8. A party may move for summary judgment, identifying each claim or defense--or the part of each claim or defense--on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion. Fed. R. Civ. P. 56(a).

9. Defendant CATA is filing its Brief in Support of Summary Judgment simultaneously with the Motion and incorporates the same herein by reference.

10. Kanish started work at CATA on February 17, 2012. Kanish dep. pgs. 7, 10.

11. Kanish ceased employment with CATA on May 9, 2017. Kanish dep. pg. 10.

12. Kanish never reported any allegations or activity of her supervisor, Ben Walker ("Walker"), to his supervisor, Karen Clark. Kanish dep. pg. 40.

13. Kanish never reported any allegations or activity of her supervisor, Ben Walker, to Tim Geibel ("Geibel"), the executive director of CATA. Kanish dep. pg. 27.

14. Kanish never afforded Geibel an opportunity to look into her allegations. Kanish dep. pg. 64.

15. Kanish never told Laura King, the human resources manager, anything about her allegations against Walker. Kanish dep. pgs. 30, 31.

16. Kanish unexpectedly resigned on or about April 20, 2017. Kanish dep. pg. 44.

17. On May 9, 2017 Kanish returned to work. Kanish dep. pgs. 47-48.

18. Kanish walked out shortly after returning to work. King dep. pgs. 148-149.

19. At her unemployment compensation hearing, Kanish testified that she did not report the alleged harassment "because [she] had a lot of things going on in her life, [and she] w[as] not sure where to go." Kanish dep. pg. 36.

20. Every CATA employee was provided with an employee handbook, which was updated annually and contained provisions related to sexual harassment. King dep. pgs. 20, 23, 30.

21. Kanish always had access to the employee handbook, which included provisions related to sexual harassment. Kanish dep. pg. 30.

22. CATA has a policy against retaliating against an employee who rejects sexual advances. King dep. pgs. 52, 53.

23. If the plaintiff unreasonably fail[s] to avail herself of the employer's preventive or remedial apparatus, she should not recover damages that could have been avoided if she had done so. Faragher v. City of Boca Raton, 524 U.S. 775, 806–07 (1998).

24. CATA did not take any action against Kanish which affected the terms or conditions of her employment.

25. Kanish voluntarily resigned and was not constructively discharged.

26. Kanish elected not to avail herself of any of the employer's preventative or remedial measures.

27. Kanish did not even report any of the allegations forming the basis of this Complaint to anyone in the chain of command or Human Resources.

28. There is no genuine issue of material fact remaining relating to Kanish's reporting or whether she availed herself to potential remedies through CATA.

29. There is no genuine issue of material fact remaining relating to Kanish's voluntary resignation.

30. As such, Defendant requests that this Court find that the Plaintiff was not constructively discharged and that Plaintiff's claims are barred due to her failure to report, permit the employer to investigate and avail herself to the preventative and corrective measures of the employer.

WHEREFORE, Defendant Crawford Area Transportation Authority respectfully requests that this Honorable Court grant its Motion for Summary Judgment and dismiss Plaintiff's Complaint, in its entirety, with prejudice.

Respectfully submitted,

SUMMERS NAGY LAW OFFICES

/s/Sean E. Summers

By: _____
Sean E. Summers, PA I.D. 92141
35 South Duke Street
York, PA 17401
(717) 812-8100
Fax: (717) 812-8108
E-mail: ssummers@summersnagy.com
*Attorney for Defendant, Crawford Area
Transportation Authority*

Dated: October 6, 2020

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CERTIFICATE OF SERVICE

I, Sean E. Summers, Esquire, hereby certify that on this 6th day of October, 2020, a true and correct copy of the foregoing Motion for Summary Judgment of Defendant, Crawford Area Transportation Authority was served upon the following parties First-Class mail, postage pre-paid at Wyomissing, Pennsylvania.

David M. Koller, Esq.
Sarah R. Lavelle, Esq.
Koller Law, LLC
2043 Locust Street, Suite 1B
Philadelphia, PA 19103

SUMMERS NAGY LAW OFFICES

/s/*Sean E. Summers*

By: _____
Sean E. Summers, PA I.D. 92141
35 South Duke Street
York, PA 17401
(717) 812-8100
Fax: (717) 812-8108
E-mail: ssummers@summersnagy.com
*Attorney for Defendant, Crawford Area
Transportation Authority*

Dated: October 6, 2020